Docket No.: 034299-698

### IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT:

Florence Rivera et al.

SERIAL NO.:

10/580,453

CONFIRMATION NO.: 4203

FILING DATE:

May 23, 2006

TITLE:

In Vivo Diagnostic And Therapy Micro-Device

**EXAMINER:** 

Not Yet Assigned

ART UNIT:

Not Yet Assigned

**CERTIFICATE OF MAILING** 

I hereby certify that this paper is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: mail stop PCT, Commissioner for Patents, P.O. Box 1450 Alexandria, VA 22313-1450, on the date printed below:

Date: 3-30

Signature:

Geneva Walls

Mail Stop: PCT

**Commissioner For Patents** 

P.O. Box 1450

**Alexandria, VA 22313-1450** 

# RESPONSE TO NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)

Dear Sir:

This paper is in responsive to the Notification of Missing Requirements under 35 U.S.C. 371 dated February 21, 2007 to the above-identified application.

Remarks/Arguments begin on page 2 of this paper.

Docket No.: 034299-698

### **REMARKS/ARGUMENTS**

Attached hereto is a copy of the Declaration as originally filed in the United States Patent Office on May 23, 2006 which identifies the application by the International application number and International filing date in compliance with 37 CFR 1.497(a); a copy of the Transmittal Letter PTO-1390 form where Applicant herewith submits the following item noted on line number nine (9) and a copy of the return postcard identifying submission of the Declaration and Power of Attorney. Accordingly, it is hereby respectfully requested that the requirement for a Oath or Declaration of the inventors be withdrawn. Also, a copy of the Notification of Missing Requirements under U.S.C. 371 is enclosed.

The Commissioner is hereby authorized to charge any additional fees or credit any overpayment to Deposit Account No. 50-1698.

Respectfully submitted,

THELEN REID BROWN RAYSMAN & STEINER LLP

Dated: March  $\mathcal{S}\mathcal{D}$ , 2007

Robert E. Krebs Reg. No. 25,885

THELEN REID BROWN RAYSMAN & STEINER LLP

P.O. Box 640640

San Jose, CA 95164-0640

Tel: (408) 292-5800 Fax: (408) 287-8040 LAP6 Rec'd PCT/DTO 1.2 APR 76137/21 (07-06)

U.S. Patent'and Trademark Office: U.S. DEPARTMENT OF COMMERCE

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TRANSMITTAL FORM		Application Number		10/580,453		
		Filing Date		May 23, 2006		
		First Named Inventor		Florence Rivera		
		Art Unit		Not Yet Assigned		
(to be used for all correspondence after	initial filing)	Examiner Name		Not Yet Assigned		
Total Number of Pages in This Submiss		Attorney Docket Numb	ber	034299-698		
	ENCLO	SURES (check all that ap	oply)			
Fee Transmittal Form	☐ Drawing(s	)		After Allowance Communication to TC		
Fee Attached	Licensing-	related Papers		Appeal Communication to Board of Appeals and Interferences		
Amendment / Reply	Petition			Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)		
After Final	Provisiona	Convert to a al Application		Proprietary Information		
Affidavits/declaration(s)		Attorney, Revocation f Correspondence Address	s	Status Letter		
Extension of Time Request	Terminal Disclaimer			Other Enclosure(s) (please identify below):		
Express Abandonment Request	Request for Refund CD, Number of CD(s)			Copies of the Declaration & POA; Transmittal Letter; Returned Postcard; Notification of Missing Requirements Under		
☐ Information Disclosure Statement	☐ Landscape Table on CD			35 U.S.C 371; Postcard.		
Certified Copy of Priority Document(s)	Remarks					
Reply to Notification of Missing Requirements Under 35 U.S.C 371						
Reply to Missing Parts under 37 CFR1.52 or 1.53						
SIGI	NATURE OF A	APPLICANT, ATTORNE	EY, OF	RAGENT		
Firm THELEN REID BROWN RAYSMAN & STEINER LLP						
Signature	Signature					
Printed Name Bobert E. Krebs						
Date	Date 3 May 200 Z Reg. No. 25,885					
CERTIFICATE OF TRANSMISSION/MAILING						
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.						
Signature Kining Walks						
Typed or printed name Geneva				Date 3-30-07		

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.



### UNITED STATES PATENT AND TRADEMARK OFFICE



UNITED STATES DEPARTMENT OF COMMERCE United States Patent and Trademark Office Address: COMMISSIONER FOR PATENTS P.O. DOS 1450 Alexandria, Virginia 22313-1450

U.S. APPLICATION NUMBER NO.	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/580,453	Florence Rivera	034299-000698
		INTERNATIONAL APPLICATION NO.
	RECENT	PCT/FR04/50602

Robert E. Krebs Thelen Reid & Priest P.O. Box 640640 San Jose, CA 95164-0640

FEB 2 3 2007
TRBRS LLP
Patent Docket

11/19/2004 PRIORITY DATE
11/19/2004 11/27/2003

CONFIRMATION NO. 4203
371 FORMALITIES LETTER

\*OC000000022566151\*

Date Mailed: 02/21/2007

## NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)

The following items have been submitted by the applicant or the IB to the United States Patent and Trademark Office as a Designated / Elected Office (37 CFR 1.495).

- Copy of the International Application filed on 05/23/2006
- Copy of the International Search Report filed on 05/23/2006
- Copy of IPE Report filed on 05/23/2006
- Copy of Annexes to the IPER filed on 05/23/2006
- Preliminary Amendments filed on 05/23/2006
- Information Disclosure Statements filed on 09/05/2006
- Reguest for Immediate Examination filed on 05/23/2006
- U.S. Basic National Fees filed on 05/23/2006
- Assignment filed on 05/23/2006
- Priority Documents filed on 05/23/2006
- Specification filed on 05/23/2006
- Claims filed on 05/23/2006
- Abstracts filed on 05/23/2006
- Drawings filed on 05/23/2006

ACTION DUE:	Missing	Parts Due
ACTION DUC.		10.10-
DUE/RMR DATE: _	4	121107
DEADLINE DATE: _	9121	107
	(17	)
<b>DOCKETED BY:</b>		

The applicant needs to satisfy supplemental fees problems indicated below.

The following items **MUST** be furnished within the period set forth below in order to complete the requirements for acceptance under 35 U.S.C. 371:

- Oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date.
- To avoid abandonment, a surcharge (for late submission of filing fee, search fee, examination fee or oath or declaration) as set forth in 37 CFR 1.492(h) of \$130 for a non-small entity, must be submitted with the

missing items identified in this letter.

#### SUMMARY OF FEES DUE:

Total additional fees required for this application is \$90 for a Large Entity:

\$130 Surcharge.

(A previous payment of \$40 will be applied to the additional fees indicated above.)

ALL OF THE ITEMS SET FORTH ABOVE MUST BE SUBMITTED WITHIN TWO (2) MONTHS FROM THE DATE OF THIS NOTICE OR BY 32 MONTHS FROM THE PRIORITY DATE FOR THE APPLICATION, WHICHEVER IS LATER. FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT.

The time period set above may be extended by filing a petition and fee for extension of time under the provisions of 37 CFR 1.136(a).

Applicant is reminded that any communications to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above (37 CFR 1.5)

Registered users of EFS-Web may alternatively submit their reply to this notice via EFS-Web. <a href="https://sportal.uspto.gov/authenticate/AuthenticateUserLocalEPF.html">https://sportal.uspto.gov/authenticate/AuthenticateUserLocalEPF.html</a>

For more information about EFS-Web please call the USPTO Electronic Business Center at **1-866-217-9197** or visit our website at <a href="http://www.uspto.gov/ebc.">http://www.uspto.gov/ebc.</a>

If you are not using EFS-Web to submit your reply, you must include a copy of this notice.

#### PATRICIA A BOOKER

Telephone: (703) 308-9140 EXT 204

#### PART 1 - ATTORNEY/APPLICANT COPY

U.S. APPLICATION NUMBER NO.	INTERNATIONAL APPLICATION NO.	ATTY. DOCKET NO.
10/580,453	PCT/FR04/50602	034299-000698

FORM PCT/DO/EO/905 (371 Formalities Notice)

Adjustment date: 04/05/2007 MKAYPAGH 05/31/2006 MKAYPAGH 00000091 10580453 06 FC:1206 -40.00 OP

04/05/2007 MKAYPAGH 00000082 501698 10580453

01 FC:1617

90.00 DA

40.00 OP



U.S. Patent .
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection or innuiting

PTO-1390 (Rev. 07-2005) of use through 3/31/2007, OMB 0651-0021 ce; U.S. DEPARTMENT OF COMMERCE coss it displays a valid OMB control number.

ATTORNEY 'S DOCKET NUMBER TRANSMITTAL LETTER TO THE UNITED STATES 034299-000698 DESIGNATED/ELECTED OFFICE (DO/EO/US) U.S. APPLICATION NO. (If known, see 37 CFR 1.5) CONCERNING A SUBMISSION UNDER 35 U.S.C. 371 INTERNATIONAL FILING DATE INTERNATIONAL APPLICATION NO. PRIORITY DATE CLAIMED November 19, 2004 PCT/FR2004/050602 November 27, 2003 TITLE OF INVENTION IN VIVO DIAGNOSTIC AND THERAPY MICRO-DEVICE APPLICANT(S) FOR DO/EO/US RIVERA, Florence, CAILLAT, Patrice, COCHET, Martine, BERTHIER, Jean Applicant herewith submits to the United States Designated/Elected Office (DO/EO/US) the following items and other information: 1. This is a FIRST submission of items concerning a submission under 35 U.S.C. 371. This is a SECOND or SUBSEQUENT submission of items concerning a submission under 35 U.S.C. 371. This is an express request to begin national examination procedures (35 U.S.C. 371(f)). The submission must include items (5), (6), (9) and (21) indicated below. The US has been elected (Article 31). 5. A copy of the International Application as filed (35 U.S.C. 371(c)(2)) a. \( \) is attached hereto (required only if not communicated by the International Bureau). b. has been communicated by the International Bureau. c. is not required, as the application was filed in the United States Receiving Office (RO/US). 6. An English language translation of the International Application as filed (35 U.S.C. 371(c)(2)). a. X is attached hereto. b. has been previously submitted under 35 U.S.C. 154(d)(4). Amendments to the claims of the International Application under PCT Article 19 (35 U.S.C. 371(c)(3)) a. X are attached hereto (required only if not communicated by the International Bureau). have been communicated by the International Bureau. have not been made; however, the time limit for making such amendments has NOT expired. d. have not been made and will not be made. 8. 🔀 An English language translation of the amendments to the claims under PCT Article 19 (35 U.S.C. 371 (c)(3)). 9. An oath or declaration of the inventor(s) (35 U.S.C. 371(c)(4)). An English language translation of the annexes of the International Preliminary Examination Report under PCT Article 36 (35 U.S.C. 371(c)(5)). Items 11 to 20 below concern document(s) or information included: An Information Disclosure Statement under 37 CFR 1.97 and 1.98. An assignment document for recording. A separate cover sheet in compliance with 37 CFR 3.28 and 3.31 is included. A preliminary amendment. An Application Data Sheet under 37 CFR 1.76. EV310856484US A substitute specification. A power of attorney and/or change of address letter. 17. A computer-readable form of the sequence listing in accordance with PCT Rule 13ter.2 and 37 CFR 1.821 - 1.825. 18. A second copy of the published International Application under 35 U.S.C. 154(d)(4). A second copy of the English language translation of the International Application under 35 U.S.C. 154(d)(4).

This collection of information is required by 37 CFR 1.414 and 1.491-1.492. The information is required to obtain or retain a benefit by the public, which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 15 minutes to complete, including gathering information, preparing, and submitting the completed form to the USPTO. Time will vary depending unon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

U.S. APPLICATION NO. (if known, see 37 CFR 1.5) INTERNATIONAL APPLICATION NO. PCT/FR2040/505602  20. Other items or information: Requete PCT, PCT/IB/311, WO 2005/053775, PCT/ISA/220, PCT/ISA/237, PCT/ISA/237, PCT/IB/308; PCT/IFEA/401  The following fees have been submitted: Salay S	PTO-1390 (Rev. 07-2005) for use through 3/31/2007, OMB 0651-0021 U.S. Patent ar iffice; U.S. DEPARTMENT OF COMMERCE Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection or information unless it displays a valid OMB control number.							
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The following lees have been submitted:    Same   S	20. Other items Requete	Other Home or information:						
21. Session national fee (37 CFR 1.492(a))  22. Examination fee (37 CFR 1.492(c))  If the written opinion prepared by ISAUS or the international preliminary examination report prepared by IPEA/US indicates all claims satisfy provisions of PCT Article 33(1)-(4)	The followin	o fees have been s	ubmitted:			Cale	culations	PTO use only
If the written opinion prepared by ISA/US or the international preliminary examination report prepared by ISPEAUS indicates all claims satisfy provisions of PCT Article 33(1)-(4)	21. Basic nation	al fee (37 CFR 1.49	92(a))	<u> </u>	\$300	\$	300	
23. Search fee (37 CFR 1.492(b)). If the written opinion of the ISAU(3 or the international preliminary examination report prepared by IPEA/US indicates all claims satisfy provisions of PCT Article 33(1)-(4)	If the written opinion pr	repared by ISA/US icates all claims sal	or the internation tisfy provisions o	f PCT Article 33(1)-(4)			200	
If the written opinion of the ISAUS or the international preliminary examination report prepared by IPEAUS indicates all claims satisfy provisions of PCT Article 33(1)-(4)			<del></del>			3	200	
International Searching Authority.  International Search Report prepared by an ISA other than the US and provided to the Office or previously communicated to the US by the IB	If the written opinion of	the ISA/US or the	international pre	; r Article 33(1)-(4)			· ·	
All other situations \$500  TOTAL OF 21, 22 and 23 = \$900  Additional fee for specification and drawings filed in paper over 100 sheets (excluding sequence listing in compliance with 37 CFR 1.821(c) or (e) or computer program listing in an electronic medium) (37 CFR 1.492(l)). The fee is \$250 for each additional 50 sheets of paper or fraction thereof.  Total Sheets Extra Sheets Number of each additional 50 or fraction thereof.  100 = 1/50 = \$100 = \$100 = 1/50 = \$100 = 1/50 = \$100 = 1/50 = \$100 = 1/50 = \$100 = 1/50 = \$100 = 1/50 = \$100 = 1/50 = \$100 = 1/50 = \$100 = 1/50 = \$100 = 1/50 = \$100 = 1/50 = \$100 = 1/50 = \$100 = 1/50 = \$100 = 1/50 =	International Sea	arching Authority			\$ 100	\$	400	
Additional fee for specification and drawings filed in paper over 100 sheets (excluding sequence limited in compliance with 37 CFR 1.821(c) or (e) or computer program listing in an electronic medium) (37 CFR 1.492(i)).  The fee is \$250 for each additional 50 sheets of paper or fraction thereof.  Total Sheets	previously comm	nunicated to the US	by the IB					
Additional fee for specification and drawings filed in paper over 100 sheets (excluding sequence listing in compliance with 37 CFR 1.821(c) or (e) or computer program listing in an electronic medium) (37 CFR 1.492(i)).  The fee is \$250 for each additional 50 sheets of paper or fraction thereof.  Total Sheets						\$	900	
Total Sheets   Extra Sheets   Number of each additional 50 or fraction thereof (fround up to a whole number)   x \$250   \$    Surcharge of \$130.00 for furnishing any of the search fee, examination fee, or the oath or declaration after the date of commencement of the national stage (37 CFR 1.492(h)).   \$    CLAIMS   NUMBER FILED   NUMBER EXTRA   RATE    Total claims   24 - 20 = 4   x \$50   \$ 200    Independent claims   3 - 3 = 0   x \$200   \$    MULTIPLE DEPENDENT CLAIM(S) (if applicable)   + \$360   \$    TOTAL OF ABOVE CALCULATIONS   \$   1,100    Applicant claims small entity status. See 37 CFR 1.27. Fees above are reduced by 1/2.    SUBTOTAL   \$   1,100    Processing fee of \$130.00 for furnishing the English translation later than 30 months from the earliest claimed priority date (37 CFR 1.492(i)). The assignment must be accompanied by an appropriate cover sheet (37 CFR 3.28, 3.31). \$40.00 per property   \$ 40    TOTAL FEES ENCLOSED   \$ 1,140    Amount to be refunded: Amount to be refunded: Amount to be refunded: Amount to be refunded: Amount to be Amount to	Additional fee for specification and drawings filed in paper over 100 sheets (excluding sequence listing in compliance with 37 CFR 1.821(c) or (e) or computer program listing in an electronic modium) (37 CFR 1.492(i))							
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charged: \$		,			<del></del>			\$ .

PTO-1390 (Rev. 07-2005) http://doi.org/10.000/10.0000 S. DEPARTMENT OF COMMERCE of unless it displays a valid OMB control number.

U.S. Patent Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection.

a. 🔲	A check in the amount of \$	to cover the above fees is enclosed.	•
b. 🗌	Please charge my Deposit Account No. A duplicate copy of this sheet is enclosed		to cover the above fees.
c. 🔯	overpayment to Deposit Account No.	to charge any additional fees which may be required 50-1698 . A duplicate copy of this	sheet is enclosed.
d. 🔯	information should not be included or	WARNING: Information on this form may become n this form. Provide credit card information and aut	Monzauon on FTO-2030.
NOTE and gi	Where an appropriate time limit under anted to restore the International Appli	r 37 CFR 1.495 has not been met, a petition to re ication to pending status.	VIVE (37 CFR 1.137 (a) or (b)) must be med
Rol The P.C Sar T: 4	ALL CORRESPONDENCE TO:  Dert E. Krebs  Elen Reid & Priest LLP  D. Box 640640  D. Jose, CA 95164-0640  108-292-5800  108-287-8040	<u>R</u>	IGNATURE  Obert E. Krebs  AME
			5,885 EGISTRATION NUMBER
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# BEST AVAILABLE COPY

Serial/Patent.No.: unassigned 11/58/45	Filing/Issue Date:
Applicant: RIVERA, Florence et al.	
Title: IN VIVO DIAGNOSTIC AND THERAPY MICRO-DE	VICE 23 MAY 2006
107	Roc'd PCTIPITE 23 WAT 2000
TRP Docket No.: 034299-000698	Atty/Secty Initials: REK/Ih
Date Mailed:	Docket Due Date: 5/27/06
The following has been received in the U.S. Patent & Tradema	ark Office on the date stamped hereon:
Amendment/Response (pgs.)	☐ IDS & PTO 1449 ( pgs.)
Appeal Brief ( pgs.) (in triplicate)	Pieces of Prior Art Enclosed
Application - Utility ( 25 pgs. with cover & abstract)	Issue Fee Transmittal
Application - Rule 1.53(b) Continuation ( pgs.)	Submission of Formal Drawings:
Application - Rule 1.53(b) Division ( pgs.)	10 # of sheets includes 11 figures
Application - Rule 1.53(b) CIP ( pgs.)	☐ Notice of Appeal
Application - Rule 1.53(d) CPA ( pgs.)	□ Postcard     □
Application – PCT (pgs )	Preliminary Amendment (3 pgs.)
Application - Provisional (pgs.)	Reply Brief (pgs.)
Assignment and Cover Sheet	Req and Cert. Not to Publish – Rule 1.213
	Request for Continued Examination (RCE) ( pgs.)
☐ Certificate of Mailing	Request for Extension of Time Month(s)
☑ Declaration & POA ( 3 pgs.)	Response to Notice to File Missing Parts
Fee Transmittal	Copy of PTO Notice to File Missing Parts
☐ Drawings (informal):	☐ Transmittal Letter (original & copy)
# of sheets includes figures	
Other:	☐ Credit Card Payment \$1,100.00 and \$40.00
Credit Card Payment Forms, Requete PCT; PCT/IB/311;	Deposit Acct.: No. 50-1698 \$
WO 2005/053775; PCT/ISA/220; PCT/ISA/210;	Patent Code: 1011, 1111, 1311
PCT/ISA/237; PCT/IB/308; PCT/IPEA/401	Client/Matter # 34299 - 698